

Message Text

CONFIDENTIAL

PAGE 01 USUN N 03793 01 OF 02 180405Z

21

ACTION DLOS-06

INFO OCT-01 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10 FEA-01

ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05

FMC-01 TRSE-00 H-02 INR-07 INT-05 IO-13 JUSE-00 L-03

NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 /158 W

----- 073750

R 172142Z SEP 76

FM USMISSION USUN NY

TO SECSTATE WASHDC 9242

C O N F I D E N T I A L SECTION 1 OF 2 USUN 3793

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS CONFERENCE--GROUP OF FIVE MEETING ON FINANCING
THE ENTERPRISE

REF: USUN 3681

SUMMARY: GROUP OF FIVE MET SEPTEMBER 13 TO DISCUSS U.S.
DRAFT PRINCIPLES FOR FINANCING THE ENTERPRISE (TEXT IN REFTEL).
U.S.S.R. INDICATED SERIOUS PROBLEMS WITH COMPLUSORY STATE
ASSESSMENTS AND SUGGESTED STATES WHOSE NATIONALS EXPLOITED
THE AREA SHOULD BEAR THE BUDEN OF FINANCING ENTERPRISE.
U.K. EMPHASIZED ITS VIEW THAT BASIC THRUST OF EFFORTS TO
MAKE THE ENTEPRRISE FUNCTIONAL SHOULD BE ON FORCED TRANSFER
OF TECHNOLOGY (THROUGH MANDATORY/JOINT VENTURES)
RATHER THAN ON FINANCING. ALL PARTICIPANTS MADE SPECIFIC
COMMENTS ON INDIVIDUAL PRINCIPLES CONTAINED IN U.S. DRAFT.
WE AGREED TO TAKE COMMENTS INTO CONSIDERATION AND
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 03793 01 OF 02 180405Z

DRAFT NEW VERSION OF PRINCIPLES TO REFLECT THESE COMMENTS TO

THE EXTENT POSSIBLE FOR SUBMISSION TO GROUP LATER THIS WEEK.
WE HAVE ALSO GIVEN SEPARATE COPY OF PRINCIPLES TO FRG REPS.
END SUMMARY.

1. U.S. DISTRIBUTED ITS LIST OF PRINCIPLES (REFTEL) AND INVITED COMMENT. IN RESPONSE TO U.S. REQUEST FOR PRELIMINARY COMMENTS ON THE ACCEPTABILITY OF THIS APPROACH, THE U.S.S.R. AND THE U.K. HAD THE MOST SERIOUS RESERVATIONS. THE U.S.S.R. (ROMANOV AND KAZMAN) SAID FLATLY THAT IT WAS NOT ACCEPTABLE TO HAVE THE ENTERPRISE FINANCED BY COMPULSORY STATE ASSESSMENTS. INSTEAD, THE SOVIETS SUGGESTED THAT CONTRACTORS AND STATES SPONSORING CONTRACTORS SHOULD LOAN THE ENTERPRISE THE NECESSARY FUNDS WITH OTHER STATES MAKING "VOLUNTARY CONTRIBUTIONS" TO THE ENTERPRISE IF THEY SO DESIRED. THE U.K. (WOOD) AGREED THAT THE BURDEN SHOULD FAL ON THOSE STATES AND FIRMS WHO EXPLOITED THE SEABED AND NOT ON ALL STATES, AND THAT IN ANY CASE MAJOR EMPHASIS SHOULD BE ON REQUIRED TRANSFER OF TECHNOLOGY RATHER THAN FINANCING. JAPAN (KOIKE) SAID IT THOUGH THE PROPOSAL WAS "FAIR BUT HARD TO SELL" AND EXPRESSED CONCERN THAT ITS FINANCE MINISTRY WOULD BE VERY CONCERNED THAT THIS PLAN REPRESENTED ONLY AN OPENING POSITION AND IN THE END THE ANTE WOULD BE RAISED CONSIDERABLY.

2. THE U.S. RESPONDED THAT NONE IN GROUP WANTED TO FINANCE THE ENTERPRISE BUT IF THIS WAS THE PRICE FOR GUARANTEED STATE AND PRIVATE ACCESS AND AN OVERALL LOS TREATY, IT WAS PROBABLY A SMALL PRIVE TO PAY. WE SAID THAT WE WOULD BE GLAD TO LISTEN TO ANY OTHER PROPOSALS, BUT WE WOULD HAVE GREAT DIFFICULTY WITH A FINANCING SYSTEM THAT PLACED THE BURDEN ENTIRELY ON THE EARLY EXPLOITERS OF THE SEABED. WE PROMISED TO STUDY THE COMMENTS AND ATTEMPT TO COME UP WITH A NEW SET OF PRINCIPLES THAT MIGHT SOLVE SOME OF THE PROBLEMS AND WHICH WE COULD DISCUSS AT AN INTERCESSIONAL G-5 MEETING. USDEL WILL BE FORWARDING SHORTLY TO DEPT NEW VERSION OF PRINCIPLES BASED ON COMMENTS RECEIVED.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 03793 01 OF 02 180405Z

3. FOLLOWING IN PARAGRAPH-BY-PARAGRAPH COMMENTS OF GROUP OF FIVE, KEYED TO TEXT CONTAINED REFTEL:

I. ALL DELS AGREED WITH PRINCIPLE OF LIMITING FINANCING TO FIRST OPERATION.

II. SOVIETS MAINTAINED IT WOULD HELP THEM TO STRESS EQUALITY OF STATE-RUN (AS OPPOSED TO PURELY

COMMERCIAL) MINING OPERATION TO ADD QUOTE BY STATES OR PRIVATE PARTIES UNQUOTE AT END OF THIS PARAGRAPH. OTHERS ALSO QUESTIONED WHAT THE PRACTICAL EFFECT OF THIS PARAGRAPH MIGHT BE. WOULD IT HOLD UP COMMERCIAL MINING OPERATIONS UNTIL ENTERPRISE WAS FUNCTIONING (WE SAID NO)? WERE START-UP OPERATIONS REFERRED TO THOSE WHICH U.S. IN PARAGRAPH V (A) BELOW ENVISAGED AS BEING COVERED BY PAID-IN CAPITAL, WHEREAS ACTUAL MINING OPERATIONS REFERRED TO THOSE REFERRED TO IN PARA V (B) BELOW AS COVERED BY CALLABLE CAPITAL (WE SAID YES). WOULD RESULTING FINANCIAL OBLIGATIONS START WITH SIGNATURE OF TREATY, IF THIS WAS THE CASE?

III. U.K. REP, AS NOTED EARLIER, PLACED HEAVIEST EMPHASIS ON TRANSFER OF TECHNOLOGY, AND FELT IT WAS UNREALISTIC TO SUGGEST THIS TRANSFER COULD BE TAKEN OFF BY FINANCING ALONE. HE DOUBTED WHETHER FIRMS WITH EXCLUSIVE RIGHTS TO SOME TECHNOLOGY WOULD BE WILLING TO PART WITH IT AT OTHER THAN EXHORBITANT PRICES, OR POSSIBLY AT ANY PRICE, UNLESS FORCED BY THE TREATY TO DO SO. JAPANESE REP TOOK OPPOSITE TACK, EXPRESSING HOPE THAT PROVISION IN NO WAY IMPLIED FORCED TRANSFER OF TECHNOLOGY. SOVIETS SUGGESTED PRINCIPLE WOULD BE IMPROVED IF IT READ QUOTE ATTRACT AND/OR ACQUIRE UNQUOTE RATHER THAN SIMPLY QUOTE ATTRACT AND ACQUIRE UNQUOTE.

IV. SEVERAL G-5 MEMBERS NOTED THAT, WHILE THEY APPROVED OF THIS PRINCIPLE OF NO UNDUE COMPETITIVE ADVANTAGES TO THE ENTERPRISE, IT SEEMED TO BE CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USUN N 03793 01 OF 02 180405Z

CONTRADICTORY TO THE MAJOR THRUST OF THE U.S. PROPOSAL TO FINANCE THE ENTERPRISE. U.S. EXPLAINED THAT WORD QUOTE UNDUE UNQUOTE AS MEANT TO COVER THIS POINT, WHICH WE CONSIDERED TO MEAN ADDITIONAL TO ADVANTAGES GAINED FROM THE FINANCING SCHEME. THE U.K. REP AND OTHERS NOTED THAT THEY CONSIDERED THIS PROPOSAL TO IMPLY IN ANY CASE THAT THE BULK OF ENTERPRISE FINANCING WOULD BE THROUGH LOANS, WHICH WOULD BE REPAYABLE AND WITH INTEREST.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 USUN N 03793 02 OF 02 180411Z

21

ACTION DLOS-06

INFO OCT-01 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10 FEA-01

ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05

FMC-01 TRSE-00 H-02 INR-07 INT-05 IO-13 JUSE-00 L-03

NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 /158 W
----- 073997

R 172142Z SEP 76

FM USMISSION USUN NY

TO SECSTATE WASHDC 9243

C O N F I D E N T I A L SECTION 2 OF 2 USUN 3793

V. ALL G-5 REPRESENTATIVES EMPHASIZED THEIR LACK OF INSTRUCTIONS TO AGREE TO ANY SORT OF FINANCING PROPOSAL, INCLUDING THAT LAID OUT IN PARA V. AS NOTED ABOVE, THE SOVIET REP IN PARTICULAR OBJECTED TO ANY SCHEME INVOLVING MANDATORY ASSESSMENTS AND THEREFORE SPECIFICALLY OBJECTED TO THE WORD QUOTE ALL UNQUOTE IN THE OPENING SENTENCE.

HE NOTED - HOW SERIOUSLY IT WAS DIFFICULT TO JUDGE - SOVIETS WERE THINKING MORE OF A SYSTEM OF LOANS FROM THE PRIVATE AND STATE COMPANIES WHO WOULD BE AWARDED CONTRACTS UNDER THE EXPLOITATION SYSTEM; THEN THOSE WHO BENEFITTED WOULD PAY THE COSTS OF THE ENTERPRISE. U.K. REP ALSO INDICATED HIS PREFERENCE FOR A SCHEME EMPHASIZING FORCED TRANSFER OF TECHNOLOGY RATHER THAN FINANCING. JAPANESE REP PARTICULARLY CONCERNED AT COSTS WHICH HE ASKED U.S. TO ESTIMATE ROUGHLY. WE INDICATED TOTAL COSTS MIGHT AMOUNT TO ABOUT \$700 MILLION, OF WHICH PAID-UP THOSE WOULD REPRESENT \$110 TO 150 MILLION.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 03793 02 OF 02 180411Z

V. (A) SOVIET OBJECTED TO INCLUSION OF QUOTE PROSPECTING UNQUOTE UNDER COSTS, MAINTAINING THAT BANKING SYSTEM FOR SITES MEANT THAT PRIVATE COMPANIES WOULD CARRYOUT PROSPECTING AND THAT INCLUSION OF THIS ITEM MIGHT PREJUDICE OUR INSISTENCE ON PARALLEL SYSTEM INCLUDING BANKED SITES. US REPLIED THAT EVEN AFTER SITES IDENTIFIED AND BANKED CONSIDERABLE PROSPECTING WITHIN THE SITE MIGHT BE REQUIRED, ALTHOUGH TERMINOLOGY COVERING SUCH ACTIVITY VARIED AND WE MIGHT BE ABLE TO DELETE OR CHANGE THIS WORD. U.K. REP SUGGESTED THAT IT MIGHT BE USEFUL TO INDICATE SUB-PARA V(A) REFERRED ONLY TO START-UP AND NOT OPERATIONAL COSTS, SINCE THE SOURCE OF FINANCING CONSIDERED THERE WAS STRICTLY PAID-IN CAPITAL.

(B) SOME G-5 REPRESENTATIVES SUGGESTED THIS PARAGRAPH MIGHT BE EXPANDED TO LIST IN COMPREHENSIVE FASHION, AS WAS DONE IN SUBPARA V(A), WHAT ACTIVITIES MIGHT BE CARRIED OUT UNDER THE FINANCING PROVIDED IN THIS SUB-PARA. SOVIET, JAPANESE, AND U.K. ALL SUGGESTED INTENTIONS IN THIS PARAGRAPH WOULD BE CLARIFIED BY SPECIFICALLY INDICATING THAT GUARANTEES FOR LOANS WERE INTENDED THROUGH THE SYSTEM OF CALLABLE CAPITAL ENVISAGED.

VI. SOVIETS AGAIN OBJECTED TO REFERENCE TO QUOTE ALL UNQUOTE STATES NOTING THAT MORE ACCEPTABLE LANGUAGE WOULD READ QUOTE ALL STATES WHICH SPONSOR COUNTRIES RECEIVING CONTRACTS UNQUOTE. U.K. SUGGESTED IT BE MADE CLEAR THAT BURDEN-SHARING REFERRED TO COVERED BOTH FINANCING QUOTE AND GUARANTEES UNQUOTE. U.K. ALSO RAISED QUESTION OF 20 PERCENT U.S. CONTRIBUTION REFERRED TO IN SECOND SENTENCE, NOTING THAT UNDER UN SCALE OF ASSESSMENTS U.S. SHARE WOULD BE HIGHER. OTHERS ASKED WHETHER IN FACT U.S. WAS SUGGESTING A UN SCALE OF ASSESSMENTS AS A BASIS FOR BURDEN-SHARING. U.S. NOTED ADVANTAGES OF USING AGREED SCALE WHICH INCLUDED ALL STATES, BUT ALSO NOTED THAT INTERNATIONAL FINANCIAL INSTITUTIONS HAD DIFFERENT SCALES IN WHICH U.S. SHARE WAS CONSIDERABLY LOWER. MATTER WAS ONE WHICH WE ASSUMED WOULD BE NEGOTIATED. SEVERAL DELS NOTED CONNECTION OF FINANCIAL BURDENS IN THIS PARA TO SYSTEM
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 03793 02 OF 02 180411Z

OF CONTROL REFERRED TO IN PARA VIII BELOW.

VII. ALL DELS AGREED IT WOULD BE DESIRABLE TO ADD AFTER PHRASE QUOTE FUNDS OBTAINED FROM THE AUTHORITY UNQUOTE THE WORDS QUOTE RESULTING FROM CONTRACT OPERATIONS UNQUOTE IN ORDER TO AVOID ANY IMPLICATION

THAT STATE SUBSCRIPTIONS TO THE AUTHORITY COULD BE USED TO HELP FINANCING OPERATIONS OF THE ENTERPRISE. THE SOVIETS AT FIRST OBJECTED TO CONCEPT OF DONATIONS THEN LATER ABANDONED THIS OPPOSITION WHEN IT BECAME CLEAR THAT THEY THEMSELVES WERE NOT PREPARED TO HELP FINANCE ENTERPRISE. MOST DELS FELT THAT THIS PARAGRAPH SHOULD APPLY TO ALL OPERATIONS OF THE ENTERPRISE AND NOT JUST THE FIRST ONE, AND IT WAS SUGGESTED THAT AN ADDITIONAL PARAGRAPH INDICATING THIS MIGHT BE DESIRABLE.

VIII. SOVIETS SUGGESTED WORD QUOTE APPROPRIATE UNQUOTE BE INSERTED BEFORE THE WORD QUOTE CONTROL UNQUOTE. ALTHOUGH NOT BOLDLY STATED, IT WAS CLEAR THAT THIS REFLECTED THEIR DESIRE TO RETAIN A SOVIET VOICE OVER THE ENTERPRISE VIA THE COUNCIL EVEN IF THEY DID NOT CONTRIBUTE TO FINANCING OF THE ENTERPRISE. U.S. SAID WE COULD ENVISAGE A TWO-LAYER SYSTEM OF CONTROL; THE FIRST WOULD BE REPRESENTATION AND INFLUENCE IN THE ENTERPRISE'S GOVERNING BOARD IN PROPORTION TO FINANCING CONTRIBUTIONS, AND THE SECOND IN THE RESPONSIBILITY OF THE COUNCIL TO OVERSEE ENTERPRISE OPERATIONS. IT WAS ALSO NOTED THAT A CONTROL SYSTEM FOR THE ENTERPRISE LINKED TO FINANCIAL CONTRIBUTIONS WOULD BE LIMITED ONLY TO THE FIRST OPERATIONS, SINCE NO FINANCING BEYOND THAT POINT WAS ENVISAGED. SCRANTON

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, AGREEMENT DRAFT, SEABED, MEETINGS, NEGOTIATIONS, EXPLOITATION (NATURAL RESOURCES)
Control Number: n/a
Copy: SINGLE
Draft Date: 17 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USUNN03793
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760352-0834
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760946/aaaabnfs.tel
Line Count: 304
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 USUN NEW YORK 3681
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 19 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 MAY 2004 by woolflhd>; APPROVED <15 SEP 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS CONFERENCE--GROUP OF FIVE MEETING ON FINANCING THE ENTERPRISE
TAGS: PLOS, LOS
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006